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FISCAL IMPACT STATEMENT

LS 6415

BILL NUMBER: HB 1484

NOTE PREPARED: Jan 15, 2013

BILL AMENDED:

SUBJECT: Bail.

FIRST AUTHOR: Rep. McMillin

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: Local

Summary of Legislation: This bill allows a court to admit a defendant to bail by requiring the defendant to: (1) deposit cash or securities with the clerk of the court in an amount not less than 10% of the total amount of the bail; and (2) execute a bail bond with sufficient solvent sureties in an amount that, when combined with the amount of cash or securities deposited with the clerk, equals 100% of the total amount of the bail. (Current law allows the court to admit a defendant to bail by requiring the defendant to execute a bail bond by depositing cash or securities with the clerk of the court in an amount not less than 10% of the bail.)

Effective Date: July 1, 2013.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures: Depending on the resources of defendants and pretrial release policies of criminal courts, this bill could reduce the number of criminal defendants who might be released on bail and increase the number of persons who might remain in jail awaiting trial.

The number of persons who might be affected cannot be determined. This could also make defendants in criminal cases more likely to use a bail bondsman if the defendant cannot secure the balance of the court-ordered bail.

Explanation of Local Revenues: If the defendants use bail bondsmen instead of depositing a 10% cash bond

with the clerk of the circuit court, then less money could be available to reimburse the county for publicly paid costs.

Background– Bail bond orders are the set of terms and conditions decided by a judge in order to release a defendant from jail between the time of arrest and the time of his/her case judgment. Bail bonds usually involve some sort of collateral supplied by the defendant to ensure that the defendant appears in later court proceedings and agrees to the conditions of release.

This collateral can come in the form of: (1) a cash bond, where all the bail money is posted up front; (2) a property bond, where property equal in value to the bond is offered; or (3) a surety bond issued by a bondsman who posts bond for a defendant in exchange for a nonrefundable premium. In exchange for this premium or up-front fee, the bail bonds professional will post bail on a defendant's behalf.

Current law also allows for a 10% cash bond that is deposited with the clerk of the circuit court. When a defendant deposits a cash bond, the counties can use a portion of the cash bond for the following:

- 10% of the monetary value of the bond or \$50 as an administrative fee and transfer an additional \$5 to the Death Benefit Fund administered by the Indiana Public Retirement System.
- The clerk of the circuit court may also retain all or a part of the cash to pay publicly paid costs of representing the defendant in court and any fines, costs, fees, and restitution that the court may order the defendant to pay.

Potential Effect – As proposed, this bill would require persons who wish to use a 10% cash bond to also execute a bail bond with sufficient solvent sureties in an amount that, when combined with the amount of cash or securities deposited with the clerk, equals 100% of the total amount of the bail. Consequently, the defendant would pay a premium (generally 10%) to a bail bondsman as well. The total out-of-pocket cost for the defendant as proposed by this new requirement would likely be 19% of the bail required (10% for the cash bond and 10% of the remaining amount for the bail bondsman).

As a result, the new costs may cause the defendant to secure release through a bail bondsman rather than using the 10% cash bond option due to the lower out-of-pocket costs.

Counties Potentially Affected – The number of counties and the number of accused persons that this bill could affect are not known. Since the clerk of the circuit court can retain a bond administration fee, the number of counties reporting the fee can be an indication of which counties use the 10% cash bond option. In CY 2011, 66 counties reported collecting the bond administration fee to the Indiana Supreme Court.

Counties Reporting Collecting Bond Administration Fee CY 2009 – 2011			
	CY 2009	CY 2010	CY 2011
Revenue from Bond Administration Fee	\$1.49 M.	\$1.35 M.	\$1.38 M.
Counties Reporting Bond Administration Fee Revenue	61	63	66

State Agencies Affected:

Local Agencies Affected: Trial courts with criminal jurisdiction; county sheriffs.

Information Sources: Indiana Supreme Court website.

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